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*** Notices to Subscribers and Contributors will be found on page iii.

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Current Topics.

The Gold Standard (Amendment) Act, 1931, and Penalties.

SECTION 1 (3) of the above Act gives power to the Treasury to make and vary orders "authorising the taking of such measures in relation to the exchanges and otherwise as they may consider expedient for meeting difficulties arising in connexion with the suspension of the gold standard." The Treasury having now issued such an order imposing restrictions on the transfer of funds abroad, the question has been raised, since neither Act nor order specifically imposes penalties for its violation, whether the order is, so to speak, precatory only, or enforceable by law. The observation may be made that it would hardly be worth while for any Government department to make an order which no one need obey. The point, however, appears to be covered by the decision in *R.* v. *Harris* (1791), 4 T.R. 202. By statute 26 Geo. II, c. 6, persons going on board ships coming from infected places were required to obey such orders as the King in Council might make. Certain orders were then made under this statute as to quarantine, and the defendant disobeyed one of them. Neither statute nor order prescribed penalty for such disobedience. The court held that disobedience to the order, being in effect disobedience to the statute, was a common law misdemeanour, and punishable accordingly. The new Act gives power to the Treasury to make orders under it, and not the King in Council, but the principle is of course the same. The case of *R.* v. *Harris* was quoted in *R.* v. *Hall* [1891] 1 Q.B. 747 (see pp. 765-7) and the law laid down is beyond doubt. The punishment for breach is accordingly fine or imprisonment (but without hard labour) or both. No order made under the Act could increase it. Whether an order made under the Act could prescribe a maximum penalty for infraction less than the maximum applicable to a common law misdemeanour might be a nice question. The above sub-section of the Act continues in force until 21st March next, and might perhaps even be used to curtail or prohibit foreign travel, if it was held to have serious effects in further depreciating our currency.

Deduction of Tax from Interest.

MANY PRACTITIONERS are confused as to the proper deductions to be made in respect of income-tax since the rate of tax has been increased. The income-tax is, of course, an annual impost, and when it is revived every year by the Chancellor of the Exchequer in his Budget Speech, the Provisional Collection of Taxes Acts renders the re-imposed tax operative immediately. Owing, however, to s. 1 (*e*) of that Act, this cannot operate in the case of a second Finance Bill in the same year, so that the increased tax rates announced by Mr. SNOWDEN recently cannot come into operation until the Finance (No. 2) Bill reaches the Statute Book. Strictly according to law, therefore, deduction of tax from mortgage and other interest and dividends should still be made at 4s. 6d. and there is no statutory authority for deducting tax at 5s. This position, however, would cause considerable inconvenience, both to the payer and the payee, and deductions at the new rate will be officially acknowledged. The Finance Bill provides that in cases where deduction of tax has been made at the increased rate of tax before the passing of the Act, such deduction will automatically become a legal deduction as from the date on which it was made. Adjustments will have to be made where one or more payments have been made in the current year under deduction of tax at the lower rate, to make good the under-deductions. For instance, if tax has been deducted at 4s. 6d. in respect of the first half-year, the deduction in respect of the second half-year will have to be made at 5s. 6d. in order to make a deduction for the full year of 5s. With regard to dividends paid by companies in respect of shares not at a fixed rate per cent. no adjustment will be necessary, for the Revenue authorities will treat the dividend, for all income-tax purposes, as representing such an amount as, after deduction of tax at 5s., is equal to the net amount paid. The companies, of course, will actually pay tax for the current year at 5s.

Game Law Simplification.

ON SEVERAL occasions contributors to our columns have urged the necessity for simplification and consolidation of the English game law. Doubtless that will come in due course. In this connexion the Game Preservation Act, 1930, passed by the Irish Free State Parliament, is well worthy of perusal by the authorities in Whitehall likely to be charged with the duty of drafting an amending and/or consolidating Bill. For that purpose the Irish Act contains a good many simplifications that might very well be adopted in reviewing our English statutes. It is described in its preamble as "An Act to make better provision for the preservation of game and for that purpose to provide for the control of game dealers and for other matters incidental or conducive to the preservation of game." It is interesting to note that the Irish courts apparently are adopting the statutes of the old Irish Parliament. Section 16 of the 1930 Act reads thus: "Section 10 of the Act *of the Parliament of Ireland* passed in the year 1787 and entitled 'An Act for the Preservation of Game' (27 Geo. III, ch. 35) is hereby amended by the insertion of the words 'rabbits, plover' therein immediately before the word 'woodcock' now contained therein and the

said section shall have effect as so amended." The new Irish statute does not purport to be a consolidation Act—that is obvious from the reference to the old statute of 1787; but it embraces a good many matters that are to be found scattered amongst English statutes hitherto in force in Ireland, several of which are handled in a condensed and simplified manner that might well be followed here.

The Luncheon Interval.

DR. JOHNSON once declared that if a man did not care for his dinner he was not likely to care very much for anything else. As readers of BOSWELL are aware, the Doctor had a blunt way of expressing himself, but in this dogmatic statement of his there is a large substratum of truth. In the courts the judges and practitioners do not dine, but, what probably they equally appreciate, they lunch, or take luncheon as those pedantically inclined prefer to say, although the members of the Bench insist upon speaking, not of "the luncheon interval," but of "the mid-day adjournment," a euphemism which always provokes a smile from those familiar with the tradition The luncheon interval is not the least pleasant part of the busy barrister's or solicitor's day, and probably it might be said that it is so likewise of the judges themselves. It would appear that a formal mid-day adjournment was not always part of the courts' routine. According to Sir FREDERICK POLLOCK, the father of the present baronet, the judges in his time did not rise at mid-day but when they sat in banco one of them would slip off for a few minutes for a snack and on his return one of his colleagues would do the same until each of the four had refreshed his inner man. At what date the innovation of a regular adjournment for lunch was introduced does not appear to be recorded anywhere, nor has the name of its inventor, like those who have provided us with so many of the other useful and pleasurable things of life, come down to us. If we knew him we should sing his praises, for he was surely a public benefactor. Writing nearly forty years ago, a learned Frenchman, describing the routine of the English judge's day, says that "at half-past one the audience is interrupted, and each judge goes to take his lunch, this one in his own room, and that one, more sociable, in the room set apart for the Lord Chancellor, which, never being occupied by him, is transformed into a dining room," and then he adds, quaintly enough, "the menu is generally very simple and the sobriety very great"! A tribute indeed to our judges! The writer then proceeds to state that "during this time the barristers and the solicitors go to the buffet installed in the building or, without putting off wig and gown, to the little restaurants in the vicinity, where they refresh themselves with a few sandwiches and a glass of sherry." In this latter statement the learned writer had probably been misinformed, for we believe it was never considered good form for a member of the Bar attired in forensic costume to frequent restaurants. Nowadays, most practitioners lunch in the building, although some barristers, like some of the judges, go to the hall or common room of their Inn of Court where lunch is served. When the present writer first attended the courts the catering arrangements were in the hands of a private contractor who had a number of buffets in the various corridors in addition to the bar luncheon room, the general luncheon room and the coffee room, all in the crypt. A good many years ago that arrangement was terminated and the Aerated Bread Company undertook the task of catering for the habitués of the building who are naturally numerous when all the courts are sitting. As the French writer said, when referring to the judges' luncheon in his time, so it may be said of that of the practitioners to-day, "the menu is generally very simple, and the sobriety very great"!

Size and Truculence.

THE REMARK attributed to Sir CHARTRES BIRON in Sunday's *Observer*: "In the course of my long experience as a magistrate the curious thing has struck me that the smaller people are, the more truculent they seem to be on occasions of disturbance," prompts the reflection that, generally speaking, big men are good-humoured. How thankful we ought to be! If men like PRIMO CARNERA took to highway robbery, or even to assaulting the police, we should all live much more dangerously. British heavy-weights, indeed, if we are to judge by the press, must spend most of their time playing with little children, toying with Pekingese dogs, or producing literary masterpieces, perhaps to the neglect of the more serious work of training. They are so peaceable that even in the ring they do not often hit out as if they really meant it. Huge criminals are rare, outside the pages of fiction. The contrast between the massive policeman in the witness-box and the diminutive figure in the dock is commonplace. And in times of public disturbance, when otherwise law-abiding, respectable people come into collision with the forces of law and order, it is, as the learned chief magistrate observes, the small men who become truculent. Perhaps their inferiority complex becomes too much for their self-possession and they strike a feeble blow in defence of their principles, only to be charged with assaulting the police, while bigger men look on unmoved. The big man, who so rarely looks absurd, is much more afraid of doing so than the little man, who often does. It seems a very wise provision of nature.

The Death of a Bail Surety.

WHEN TWO men charged with forgery who were on bail were called upon to surrender recently at the Old Bailey, one only did so, and prosecuting counsel stated that the missing man was not likely to appear, since it was known that his surety was dead. In the circumstances, the case was postponed, the man who surrendered again being allowed bail. In view of the changes and chances of life, it may seem strange that a research amongst the usual authorities does not reveal a parallel case. Absconding while on bail, however, is an unusual offence, and, although one must assume that out of thousands of persons who stand bail every year, a few may die before discharge, no accused person appears previously to have bolted on the death of his single surety—or, at least, if he has done so, no question has arisen and been determined on which an authorised legal report has been made. The proposition that the death of the accused person releases the bail surety in a criminal case would seem hardly to require the authority of "Coke upon Littleton" (see p. 206A), which was quoted in an old American case, *People* v. *Manning* (1828), 18 Am. Dec. 451. In another American case, it was held that the sickness of the surety at the time of the default of the principal was not an excuse, and could not be pleaded on an application for remission of forfeiture when the accused was still at large: see *People* v. *Meehan*, 14 Daly N.Y. 333. In civil cases the liability of a surety is not necessarily terminated on his death: see, for example, *Re Crace* [1902] 1 Ch. 733, which was a case of a fidelity guarantee. In criminal cases, however, the accused person is nominally in the custody of the surety, a custody which, beyond all question, ends on the latter's death. It would not be reasonable to expect the executors to continue the custody, and still less so for the administrator of the intestate, a mere stranger until he receives his grant. Nor in the last case could the Probate Division be expected to look after the accused until the letters were granted—and, indeed, the fact of the bail might not be known even to executors. It would seem, therefore, that the death of the surety before the surrender of the accused person is required, not only frees him, as it is bound to do, from the earthly duty of custody, but also frees his estate from all liability. This appears to indicate some little weakness in the law where there is a single surety, which could possibly be remedied by nominating an alternative surety in case, by "Act of God" or otherwise, the main or principal surety is unable to do his duty.

Dreams and the Child.

[CONTRIBUTED.]

BUSINESS connected with an overheated brake-drum brought me to town in August, and left me with three or four hours in hand while the necessary adjustment and tests were made. Hair cut and lunch at the club seemed obvious, and I made my way in that direction.

It was hot and thundery. London was redolent of humanity and good works.

At Sloane Square a lady of my acquaintance was carrying a suit case and half a hundredweight of spring onions, being the hand luggage of a returning party of children's country holiday fund infants whom she was apparently convoying to Pimlico and the neighbourhood of the King's Road, Fulham.

In Pall Mall, a King's Counsel, dressed in green flannel, crossed the deserted road abruptly just in time to avoid meeting me. He may, of course, have seen me coming, but I prefer to think that he wanted to look at fishing tackle in HARDY'S window. I always cross Pall Mall myself at the same spot for that reason.

The club was full of idealists and police magistrates (who, however, are, I suppose, idealists, too).

However, the tale comprised two eminent members of the Civil Service, three "Beaks," and a politician in town for the wedding of a colleague.

I did not intend to exchange the country in the latter days of an expiring holiday for an atmosphere of August Utopianism, so at half-past three I turned again outwards and westwards.

I crossed Pall Mall to the north side for the reason already given, and fell as I did so into the arms of a valued colleague, who is also an optimist. He invited me to drink with him in the "best hotel in London," and we crossed back and entered that club accordingly.

We found therein a post-office, a book-stall, a swimming bath, a roof garden, and three bars, but, of course, there were no drinks on sale at that period of the afternoon at any bar or book-stall of them all.

We withdrew and talked fish talk accordingly in easy chairs, till my host bethought him of a letter to write, and I dozed for a few moments in the draught of a window.

I dreamed of juvenile courts.

The magistrates at lunch had, I suppose, started a train of thought.

I remembered to have seen them, two out of three, anyway, functioning from time to time with juvenile delinquents. Commonsense sort of men, I had thought, family men themselves probably, with a happy touch of the best type of father or house-master, familiar without familiarity, dignified, but not alarming, competent, as it seemed, to deal with the offender, the parents and the diversions occasioned by two unprofessional colleagues, one of whom seemed to clamour always for the birch rod, while the other giggled nervously and ineffectively.

But those, of course, were memories of the old unenlightened days that are passing so rapidly away.

My vision took me into the future, far as or further than human eye could see, and I dreamed of a stately dome, better than anything KUBLA KHAN ever decreed in the best period of his imagination.

Somehow reminiscent it was of the great exhibition that astounded the world before I was old enough to see it, and it stood, Crystal Palace like, in the middle of Hyde Park; somehow it suggested Olympia, executed in the style of Westminster Cathedral on the lines of the Parthenon.

And at the back was a large wharf-like structure where delinquents could be unloaded from the motor-lorries that plied incessantly between Hyde Park and Hither Green, Hampstead, Hoxton, and the parts of darkness. There was suitable accommodation within this building for waiting and for consulting; for washing and for resting; refreshment was provided for and prayer, and there was a special room devoted to making resolutions and signing pledges. The talk room occupied nearly all the first floor, a fine hall, not unlike a house of convocation. Here the daily debates, the weekly councils, and the monthly discussions would take place of the official and voluntary workers for the child.

On the floor above, under the dome, was the court, only it would not be called a court, for fear of the undesirable association of ideas likely to be called up by such a word. The whispering gallery I called it, myself, for when the court was in session everyone whispered to everyone else throughout the proceedings.

Let me describe the scene as I dreamed it.

The hall was dominated by a large pulpit, occupied permanently by the chief clerk, a benevolent and omniscient specialist in a grey suit. The body of the hall was divided into three blocks of pews, facing the pulpit and divided by aisles, one from another.

Between the front pews and the pulpit was the operating table, served from the observation ward by a trolley, running on rails.

The pews were allotted as follows: one block to psychologists, one to social and welfare workers, one to probation officers. The magistrate was another specialist. Apple-cheeked and silver-haired, he aspired to the appearance of a farmer, again in order to avoid unpleasant associations, if he should by chance appear to be what he really was. He was dressed accordingly, when I saw him in my dream, in corduroy breeches with buttoned gaiters and very large boots. He affected, when he remembered to do so, a Somersetshire accent. He alone of all the company had no fixed place in the hall, but was provided with a movable seat of the type known elsewhere as a shooting stick. With the assistance of this useful article of furniture he was able to flit and squat and flit again, like some able-bodied butterfly, from one group or posse of well-doers to another, turning an attentive ear and bringing a retentive brain to each batch of whisperers in turn.

No evidence was given upon oath or even spoken audibly, and therefore only the magistrate of all the company learned the whole of what was being said about the case, or the psychometry of the defendant or the mental processes of his immediate forbears.

Police were present in large quantities, standing in the aisles, but they were suitably disguised, and no child regarding their Harris-tweed coats and cricket shirts open at the neck, hall-marks of the new system, would suspect their real status or develop a sinister complex from the sight; on the other hand, no adult, contemplating the uniform trousers and regulation boots at their other extremities, would be so misguided as to mistake them for journalists or lay brothers.

The most successful innovation I have kept to the last. The juvenile delinquent was kept out of court as much as possible, because of the possibly suggestive effect upon his adolescent mentality of seeing together and at once in the same room more probation officers than he would be likely ever again to see collected in one place, however unhappily his future career might develop later.

He was not expected to plead to the charge or listen to any evidence or make any defence; the case, in fact, was heard and his future arranged for in his absence. But, for some reason, conventional I suppose, traditional perhaps from the unenlightened days, the body of the delinquent was brought to the operating table, before the case was called on, for the purpose of a view, and as rapidly withdrawn after inspection, upon the swift and silent trolley on which it arrived.

No adverse reactions could, I was assured, possibly ensue from this seemingly hazardous intrusion of a young mind into a world of complicated and mundane influences, as the delinquent, or patient, as I may perhaps call him, was never

thus produced except when in a state of complete coma, induced by a scientifically-measured quantity of improving talk, whispered to him before his appearance by microphonic communication from the talk-room, which of course is kept perpetually in session for this purpose.

I asked the clerk, before waking, what sentences were imposed, as it seemed to me that they would vary enormously according to the gravity of the crime and the pathology of each case. "No," he replied, "that is not so, at all. The sentence is very carefully thought out in every case, but in fact it never varies. Six years in a clinic, followed by an indeterminate period of supervision by a pathologist. The cost is paid by the state."

My host's letter being now written, I left the club with him, perspiring more freely than when I entered it.

Our only real progress comes in dreams, I think, sometimes.

Outstanding Liabilities.

THE decision of Mr. Justice WRIGHT in a case which he described as raising a very interesting point which lay in quite a small compass, has been reversed by the Court of Appeal: *United Kingdom Advertising Co. Ltd.* v. *Whiting and Another* (75 SOL. J. 259; 47 T.L.R. 420). Briefly the facts are as follows: The plaintiffs agreed orally with the defendants, the holders of the shares in a certain cinema company, to purchase the shares and interests of the defendants. The latter agreed to indemnify the plaintiffs in respect of any liabilities of the company outstanding at the date of the completion of the purchase. That indemnity was included in a letter to the plaintiffs, signed by the defendants, in the following terms: "In consideration of your company having purchased this day our shares and interests in the above company (the cinema company), we undertake and guarantee to pay and indemnify you against all outstanding liabilities of the company up to the date of the completion . . ." At that date, which was the 2nd August, 1928, there was a liability of the cinema company in respect of income tax and property tax for the period from the 6th April, 1928, to the 2nd August, 1928, amounting in all to £215 5s. 7d. The question was whether that sum was an "outstanding liability" within the meaning of the guarantee letter so as to entitle the plaintiffs to be indemnified against it. Counsel for the plaintiffs in the court below pointed out that the defendants having had the whole of the profits of the cinema company during the material period, it was a manifestly unfair proposition that the plaintiffs should be left to pay the income tax on those profits. While recognising the force of that argument, Mr. Justice WRIGHT held, nevertheless, that the plaintiffs were not entitled to succeed. He was quite sure that if the parties to the agreement had at all contemplated this particular matter they would have dealt with it in precise words. "In my judgment," he said, "'outstanding liabilities' is intended to cover, and does cover, definite debts of the company which for some reason or other have escaped the notice of the parties and have not been paid. That is to say, definite ascertained debts for services actually rendered, or matters actually performed, such as repairs done to the building, or goods supplied to the building . . . But where you have, as here, a liability which will not accrue for some considerable time, and in respect of which no payment is due from anybody until a very remote date, and when the amount of that payment must depend upon various computations, then I think it cannot be regarded as an outstanding liability within the intention of this agreement and according to its true construction." The point was not, as Mr. Justice WRIGHT declared at the opening of his judgment, easy to decide, and with respect to his lordship, we were inclined at the time to take a contrary view to that which he expressed. Income tax and property tax up to the date of the completion of the purchase were indisputably liabilities of the cinema company, payable by the defendants, if the purchase for any reason had fallen through, and the company must surely be deemed to have known that as a matter of ordinary business knowledge. The use of the words "outstanding liabilities" would appear to include any liabilities, whether within the knowledge of the defendants or not at the date of completion. In fact, one might think that the very words appeared expressly wide enough to cover any unexpected liabilities that might crop up, and it is a little difficult in these days to include income tax among unexpected liabilities, rather it is more usually a sadly recognised outstanding liability. At all events Mr. Justice WRIGHT's judgment has now been reversed by the Court of Appeal, Lord Justice SCRUTTON himself describing the case as "troublesome." The procedure in connexion with income tax, said his lordship, was that Parliament first passed a resolution, and then came the Act incorporating the resolution. The effect of that was that there was then a liability put on every person to pay income tax. Lord DUNEDIN, in *Whitney* v. *Inland Revenue Commissioners* [1926] A.C., at p. 52, said "Liability does not depend on assessment: that, *ex hypothesi*, has already been fixed. But assessment particularises the exact sum which a person liable has to pay. Lastly, come the methods of recovery, if the person taxed does not voluntarily pay." "The question" concluded Lord Justice SCRUTTON, "was which of the two companies was liable to pay the tax; was it the company which had made the profits or the company which had not?" In his view the income tax for the period up to the date of completion should fall on the company which made the profits, and if so, it must include the amount apportioned up to the date of completion. The plaintiff must succeed both as to Schedule A and as to Schedule D; that construction fitted in with the business of the transaction. "The other construction," observed his lordship, tersely, "would make one person take all the profits and the other person all the liabilities."

Importance of "Actual Occupation."

OFTEN the problems which arise for consideration under the Rent Restrictions Acts are so difficult and abstruse that the simple point of paramount importance, namely, that those Acts were primarily intended to protect people actually living in houses within the scope of the Acts from being turned out, is rather apt to lose its significance. There have, however, been a number of decisions in which this point has been raised, but, unfortunately, there appears to have been a conflict of judicial opinion which has introduced some inconsistency into the decisions. In *Collis* v. *Flower*, 65 SOL. J. 108; [1921] 1 K.B. 409, the tenant of a dwelling-house within the scope of the Acts died. Her residuary legatee, who had lived with her, continued to reside in the house. The landlord claimed possession against both the residuary legatee and the executor. It was found in the county court that there was no assent by the executor to the residuary legatee taking the tenancy in part satisfaction of her rights as residuary legatee, and that she was not a tenant of the house; it was also held that the executor, not being in occupation of the house, could not claim the protection of the Acts. Mr. Justice ROWLATT, with whom Mr. Justice MCCARDIE agreed, reversed that decision as regarded the executor and held that the executor clearly became the tenant of the house, and, as such, entitled to the protection of the Acts although not in actual occupation of the premises.

In *Mellows* v. *Low and Others*, 67 SOL. J. 261; [1923] 1 K.B. 522, the facts were somewhat similar to those in *Collis* v. *Flower*, *supra*, and this latter was followed and

applied. The weekly tenant and sole occupier of a house within the Acts died intestate after an accident. While in hospital before she died the tenant authorised the sub-letting of the house. After her death her sister was appointed administratrix, but she never resided in the house in question. On a claim by the landlord for possession, Mr. Justice McCardie, reversing the decision of the county court judge, held that the administratrix, again although not in actual possession, was the tenant and entitled to the protection of the Acts. Mr. Justice Bailhache agreed. Opposing views were taken by Mr. Justice Swift and Mr. Justice Acton in *Hicks* v. *Scarsdale Brewery Co.* [1924] W.N. 189. Possession of premises within the Acts was sought by the freeholder; the tenant, the defendant brewery company, had never in fact occupied the premises themselves but had sub-let them. Mr. Justice Swift was of the opinion that the brewery company had "no right under the Acts not to be dispossessed," and he dismissed their appeal against the county court judge's order for possession. Mr. Justice Acton thought that the appeal should be allowed, which again meant that, although the company had not occupied the premises, they were still entitled to the protection of the Acts.

Lastly comes another example of the opposite view, and this time from the Court of Appeal. It is sufficient for the present purpose to refer only to the words of Lord Justice Scrutton in *Haskins* v. *Lewis*, 47 T.L.R. 195: "One thing is quite clear," said his Lordship, "that the original tenant is not residing in those floors; other persons are his sub-tenants, and are residing there, and the consequence is that you have this position, that the original tenant is not occupying any part of the original dwelling-house so as to make him a tenant under the Act; . . . he is not in personal occupation at all of any dwelling-house. That being so, he appears to me to come within the fundamental principle of the Act, that is, to protect a resident in a house, not to protect a person who is not residing in a house but is making money by sub-letting."

Thus, without having considered detailed reasoning based on the construction of the material sections of the Rent Restrictions Acts, sufficient has been said to indicate the divergence of judicial opinion on what is, beyond doubt, an extremely important aspect of this legislation. Briefly, apparently, it would appear that a tenant not in actual occupation of otherwise protected premises, and who has no intention of himself going into occupation, loses his right to protection. The last case on this point came before a Divisional Court on the 27th April (*Skinner* v. *Geary*, 75 Sol. J. 458; 47 T.L.R. 421). The defendant, for some years before 1919, had been the tenant and occupier of dwelling-house A within the scope of the Acts. In 1919, however, he went to live with his wife in another house of which she was the tenant, and he allowed his wife's sister and her husband to occupy house A. In June, 1930, his wife's sister and her husband left, and he then permitted his own sister to reside in house A, and she was living there when proceedings to recover possession of house A were begun by the landlord. The county court judge made an order for possession. On appeal by the defendant, Mr. Justice Talbot, dismissing the appeal, said: "Conscious as I am that it involves a departure from *Collis* v. *Flower*, *supra*, and *Mellows* v. *Low and Others*, *supra*, and of the conclusion that *Kreitman* v. *Vidofsky*, 43 T.L.R. 335, cannot be reconciled with what the Lords Justices say in *Haskins* v. *Lewis*, *supra*, and although we feel embarrassed by the fact that apparently none of these authorities were brought before the Court of Appeal in *Haskins* v. *Lewis*, it seems to me our duty to follow what the judges in the Court of Appeal have said." Mr. Justice Finlay agreed, saying, with great truth, that the position was difficult.

Mr. Frank Augustus Graham, of Hanover-street, W.1, solicitor, left estate of the gross value of £13,075, with net personalty £9,802.

Careless Driving.

Parliament, in its wisdom, and the Road Traffic Act created the offence now known popularly as "Careless driving."

This, it is to be supposed, is something less serious in its nature than dangerous driving.

When the offence first came into being, summonses were often taken out against a defendant simultaneously for dangerous and for careless driving, where difficulty was experienced in determining beforehand the exact value of the prospective evidence.

This practice, which seems—subject to its being rightly understood and applied—unobjectionable, has not been abandoned, though there is an increasing tendency to charge almost every kind of objectionable driving as "careless."

What must be remembered about the so-called alternative summons is the proper procedure thereon.

An outspoken colonel in Berkshire has denounced the procedure from his Bench, and other criticisms have no doubt been made, but there can, it is thought, be no possible objection to issuing as many summonses as are chosen for as many different offences arising out of the same set of facts.

What cannot properly be done, however, is to try these summonses simultaneously, except with the consent of the defendant.

If he is willing, it may be left to the court to say, after hearing the evidence, whether any, and, if so, which offence is proved.

If, however, the defendant does not agree to this course, the prosecution must elect which summons to take first.

In that case either there is a conviction for the selected offence or an acquittal. In the latter event it would probably be correct to say that a plea of *autrefois acquit* would be a bar to hearing the same case again under another name.

Whether prosecuting authorities think it safer, when in doubt, to charge careless than to charge dangerous driving cannot be known. Dangerous driving is triable, at the defendant's option, before a jury, and it may be that the simpler procedure of summary trial influences the selection of the charge. This would be slovenly thinking, and is not fair. If the charge really ought to be one of driving to the public danger, no one has a right to call it by a less serious name in order to keep the case in the police court.

It can hardly be that since the advent of the new offence there has come an end to all dangerous driving, but there are certainly less charges made of the more serious offence.

Perhaps this is due in part to the improved standard of driving which followed the abolition of the speed limit, and the increase of the penalties for recklessness.

Prosecuting authorities must, however, not forget that it is possible still to drive dangerously, and that when the facts seem to warrant it the charge should be made in that form, even if it does involve a possible committal for trial.

A case was recently reported in the press in which it was said that the driver of a motor car, conceiving himself aggrieved by the conduct on the road of a motor omnibus, deliberately drove at the omnibus and rammed it.

That could not possibly be a case merely of driving without due care and consideration for others, nor does it seem an offence which, if proved, could be adequately dealt with by a fine.

If anything ever was or could be dangerous driving, this was it, and it is difficult to imagine a case of the sort in which a less penalty than imprisonment and suspension of the right to drive would meet the ends of justice.

The driver who maliciously and of set purpose collides with another must not be left on the road to do such a thing again, and others must be given to understand by the example of this case that such driving, when proved, will be punished severely.

Company Law and Practice.

XCVII.

(*Continued from p. 639.*)

SCOTLAND.

I.

COMPANIES which are registered in Scotland do not perhaps very frequently cross the track of the English company lawyer, and, if they do, he will, of course, be aware of the fact that they are governed by the Companies Act, 1929, though not by every section which applies to companies registered in England, while there are also certain sections of that Act which apply to companies registered in Scotland only.

It may be the wrong end of its existence to begin, but, as we have been recently discussing the winding up jurisdiction, it is not inappropriate to say that the Court of Session has jurisdiction to wind up any company registered in Scotland, and that where the paid-up or credited as paid-up capital does not exceed £10,000 the sheriff courts have concurrent jurisdiction (Companies Act, 1929, s. 166). These, however, are purely domestic affairs, which the Sassenach can dismiss at a glance, but, if a company registered in Scotland has the temerity to carry on business in England, then he must begin to look to himself. Such a company cannot be wound up in England, but it may nevertheless be found in proceedings in the English Courts; whilst it is compelled, by s. 90 of the Companies Act, 1929, to observe the provisions of Pt. III of the Act (which deals with the registration of mortgages and charges) with regard to charges on property in England created after the 1st November, 1929, and with regard to charges on property in England which is acquired after that date.

When there is a company registered in Scotland which has any considerable establishment in England, the most surprising questions may arise if that company issues debentures. The floating charge is a form of security unknown to the law of Scotland, so that so far as Scottish assets are concerned, any debentures, or the trust deed securing them, can confer no more than a fixed charge, but in this country we have that most convenient form of charge, and accordingly, if and so far as a company registered in Scotland carries on business in England, it may give a floating charge over its English assets. Unless and until the company finds itself in difficulties, no difficulty will arise, but when the debenture-holders decide that a receiver must be appointed, then certain curious points emerge. If the debenture-holders bring an action in England to enforce their security it will have to be limited to the English assets; and when such an action is brought, and the judgment comes to be considered, with a view to framing minutes thereof, it will be discovered that the provisions of the Act as to preferential payments do not apply. It will be remembered that the preferential payments are only to be made out of assets subject to the floating charge, and not also out of the assets subject to the fixed charge, if there be one—the section is not clear, but the decision in *Re Lewis Merthyr Collieries* [1929] 1 Ch. 498, puts it beyond question.

The material sections are ss. 78 and 264 of the Act, and s. 78 provides that where, in the case of a company registered in England, a receiver is appointed or possession is taken, and the company is not at the time in course of being wound up, the preferential debts (which are set out at length in s. 264) are to be paid in priority to all other debts. I do not wish to dwell on what these preferential payments comprise, but I may just remind my readers that they include certain rates, taxes, wages and salaries, and payments under the Workmen's Compensation Act, and under other enactments. Section 78 is perfectly definite, in that its application is only to companies registered in England, and the reason for this is that the law of Scotland does not recognise a floating charge, but what apparently has been overlooked is the possibility of a company registered in Scotland creating a floating charge over such of its undertaking and assets as are situate in England. This would not be void as a bill of sale (*Clark* v. *Balm* [1908] 1 K.B.). The result that follows is that, if one desires to evade the possibility of the value of a floating charge being whittled away, on its enforcement, by preferential claims, the business over which it is intended that the floating charge shall be given must be the property of a company registered in Scotland. If this be so, when the moment comes for enforcing the security, the fortunate debenture-holders can laugh at the claims of those bodies and individuals, whom the legislature has attempted to protect in this way. In some cases, particularly in a concern like a colliery undertaking, where there may be very large claims under the Workmen's Compensation Act outstanding (see *Re Lewis Merthyr Collieries, supra*), such a result might be of very considerable benefit to the debenture-holders, and a very grave disadvantage to the workmen.

It is not uncommon to see the most tortuous methods adopted, at considerable expense to the party adopting them, in order to save some small sum of money here or there, and particularly to save some small sum which would otherwise be payable to the Crown, but this flaw in the Act, which though it is perhaps no new discovery, does not seem to have seen the light of day, at any rate during the last few years, is hardly likely to lead to a rush of applications to register companies in Scotland. There would not be much real difficulty in performing an operation to switch over the registration of a company from England to Scotland, or *vice versa*, because s. 55 of the Finance Act, 1927, which gives relief from capital and transfer stamp duty, is general in its terms, referring to companies with limited liability, without in any way limiting the place of registration, or suggesting that, in any operation under the section, the two companies concerned must both be registered in the same country.

(*To be continued.*)

A Conveyancer's Diary.

Lessees having Notice of their Lessors' Title.

To put it shortly, the question which I propose to consider this week is—has *Patman* v. *Harland* (1881), 17 Ch. D. 353, been overruled by s. 44 of the L.P.A., 1925?

In the note to sub-s. (5) of that section the learned editors of "Wolstenholme's Conveyancing Statutes" state: "This sub-section overrules the decision in *Patman* v. *Harland*," and so distinguished an authority as Mr. Cyprian Williams, in his comment upon the same sub-section in "The Contract of the Sale of Land" at p. 61, expresses the opinion that "The effect of s. 44, sub-s. (5), of the Law of Property Act, 1925, appears to be to abolish the rule laid down in *Patman* v. *Harland*."

Having regard to the views of those learned commentators, it may seem presumptuous on my part to hazard a contrary opinion. Nevertheless, I venture to say that the learned writers to whom I have referred and others (see, e.g., the late Mr. Jolly's book on "Restrictive Covenants" at p. 30) have (if I may use the expression in relation to such weighty and cautious authorities) jumped hastily to a wrong conclusion. In short, I suggest that *Patman* v. *Harland* has not been overruled and remains as sound and binding a decision as ever it was in a very large number of cases.

In the first place, let us see what *Patman* v. *Harland* really decided.

The facts were that the plaintiff Patman conveyed certain land, being part of a building estate at Wimbledon, to a purchaser, Hervè, subject to certain restrictions and obligations as to building and other matters contained in an indenture

of mutual covenants executed by the plaintiff and Hervè and the purchasers of other building plots part of the same estate. One of the covenants in the latter deed provided that only dwelling-houses should be erected upon the land in question. Hervè conveyed the land to the defendant Harland subject to the restrictions and obligations as to building by reference to the deed of mutual covenants.

The defendant Harland erected a dwelling-house on the land which he had purchased and let the house on lease for seven years for purposes other than those of a dwelling-house. The lessee was not informed of the restrictive covenants affecting the land.

It was held that the lessee had constructive notice of the title of the lessor, Harland, and consequently had notice of the deed of mutual covenants which was referred to in the conveyance to him, with the result that the lessee, although having, in fact, no notice of the restrictive covenants affecting the land, was bound by them. That was so, notwithstanding that under s. 2 of the V. & P.A., 1874, a lessee under an open contract was not entitled to call for the lessor's title. Since that Act the lessee who failed to stipulate for investigation of the lessor's title was in the same position as a lessee who, before the Act, expressly contracted not to do so.

Now turn to s. 44 of the L.P.A., 1925. With sub-s. (1) we are not concerned. The next three sub-sections are important—

"(2) Under a contract to grant or assign a term of years whether derived or to be derived out of freehold or leasehold land, the intended lessee or assign shall not be entitled to call for the title to the freehold.

"(3) Under a contract to sell and assign a term of years derived out of a leasehold interest in land, the intended assign shall not have the right to call for the title to the leasehold reversion.

"(4) On a contract to grant a lease for a term of years to be derived out of a leasehold interest, with a leasehold reversion, the intended lessee shall not have the right to call for the title to that reversion."

There is nothing new about these sub-sections, but it may be observed that they refer only to the rights of a purchaser or lessee *under a contract*.

The next sub-section is that which, it is said, overrules *Patman* v. *Harland*; it reads:—

"(5) Where by reason of any of the three last preceding sub-sections an intending lessee or assign is not entitled to call for the title to the freehold or to a leasehold reversion, as the case may be, he shall not, where the contract is made after the commencement of this Act, be deemed to be affected with notice of any matter or thing of which, if he had contracted that such title should be furnished, he might have had notice."

It will be seen that this sub-section only applies to cases which come within sub-ss. (2), (3) and (4), that is, when there is a contract either to assign or to grant a lease. In the great majority of cases where a lease is granted there is no contract. Of course there are many instances, especially in the case of building leases, where there is a contract, but that is generally where the granting of the leases is postponed until buildings have been erected. For the most part leases at a rack rent are not preceded by an agreement.

Then, again, assuming that there is a contract, it often happens that there is an express provision that the intending lessee is not to be entitled to investigate the title of the lessor. In such cases I think that sub-s. (5) has no application, because it is not "by reason of" sub-ss. (2), (3) or (4) that the intending lessee is precluded from calling for the lessor's title, but by reason of the provisions of the contract.

It seems, therefore, that the rule in *Patman* v. *Harland* still applies, except where there is a contract which does not expressly provide that the intending lessee shall not investigate the title of the lessor.

The actual decision in *Patman* v. *Harland*, it will be remembered, had reference to the granting of a lease not an assignment of an existing lease, although, no doubt, the doctrine as to notice laid down by Lord Esher applies to both.

Assignments are, of course, usually made in pursuance of contracts, and consequently it will be found that sub-s. (5) will protect a purchaser from being saddled with constructive notice of the title of the lessor to grant the lease and to that extent the doctrine in *Patman* v. *Harland* may be regarded as abolished, except where the purchaser is expressly bound by the contract not to investigate the lessor's title to grant the lease. Although that is so, the actual decision remains applicable in the vast majority of cases of the granting of a lease as distinguished from an assignment.

I hope to have something further to say on this subject next week.

Landlord and Tenant Notebook.

Landlord's Right of Entry.

The proposition that an Englishman's house is his castle is a colloquial saying rather than a legal maxim. Nevertheless, Common Law and Equity have subscribed to the principle; and the judges of the Court of Appeal who dismissed an appeal against an injunction granted by Jessel, M.R., in *Stocker* v. *The Planet Building Society* (1879), 27 W.R. 877, C.A., spoke with some feeling. The castle in that case had in fact been sub-let by the plaintiff to weekly sub-tenants, who had raised no objection when the defendants, the plaintiff's landlords, entered to effect repairs. The defendants were themselves leaseholders whose interest was liable to forfeiture if repairs were not done; this provision was repeated in the lease granted by them, but it did not provide for a right of entry. They had only taken action when the plaintiff ignored a notice served upon him, but Jessel, M.R., granted the injunction *ex parte*, and little sympathy was bestowed upon them in the Court of Appeal. It was held that weekly sub-tenants could not authorise interference with the structure, and James, L.J., ruling that balance of convenience was irrelevant, characterised the defendants' conduct as a plain invasion of the rights of property.

It may be true that no reasonable tenant would refuse to allow his landlord to repair premises which he ought himself to repair; but the landlord defendant who took this course in *Barker* v. *Barker* (1828), an action for trespass, was unable to satisfy the jury that leave and licence had been given; Best, J., told them that in that case they would have to award something, however absurd it might be, and £20 was the amount of the verdict. In *Fearsley* v. *Reindall* (1859), 1 F. & F. 719, the landlord in a similar action succeeded in establishing his plea, the facts being that, when the plaintiff first complained, she had offered to repair a roof from which lead had repeatedly been stolen, but the plaintiff had then asked her to wait in the hope of catching the thief next time. When the plan failed, the defendant had told her tenant she would wait no longer before actually commencing operations; and though those operations, involving the stripping of the whole roof in rainy weather, caused the tenant a good deal of loss, he was held to have given leave and licence by making the complaint.

When a landlord is under an express covenant to repair, no provision or special licence is necessary. This was established in *Saner* v. *Bilton* (1878), 7 Ch. D. 815. The tenant had been deprived of the use of the premises, a warehouse, for a considerable time while repairs were effected, but there was no evidence that the time taken was excessive. It was argued that the lease contained no provision entitling the landlord to enter, and that his entering was a breach of the covenant of quiet enjoyment, but Fry, J., held (p. 824) that a licence was implied, and that it both authorised the landlord to enter and to occupy for a reasonable time. The learned judge

mentioned that it was in the landlord's interest to enter, in order to protect his property, but the ruling is actually founded on the obligation placed upon him by the covenant.

Present-day legislation generally confers a statutory right of entry for the particular purposes of the Act. The landlord of a dwelling-house to which the Increase of Rent &c. Act, 1920, applies, must be afforded access and reasonable facilities for executing repairs he is entitled to execute (s. 16 (2)). The Housing Act, 1925, like its predecessors, provides landlords of properties within the prescribed limits with a right of entry, after twenty-four hours notice, to view the state of the premises (s. 1 (2)). Superior landlords, mortgagees, etc., can, under certain circumstances, obtain a magisterial order giving them access for the purposes of repair or demolition (s. 29 (2), amended by Sch. V of the 1930 Act). A landlord of a holding within the Agricultural Holdings Act, 1923, may at any reasonable time enter for the purpose of viewing the state of the holding (s. 28). And when Pt. I of the Landlord and Tenant Act, 1927, applies to premises, the landlord may at all reasonable times enter for the purpose of executing any improvements he has undertaken to execute and of making any inspection reasonably required (s. 10).

We have fortunately been spared law reports illustrating the meaning of "reasonable" (or "seasonable," as some covenants put it). The question is, of course, one of fact. This does not usually deter zealous reporters from recording decisions, or zealous advocates from citing them, however futile such a proceeding may be. But on a point of construction the old case known as *The Earl of Kent's Case*, decided in Queen Elizabeth's time, and reported by Gouldsborough ("that learned and judicious Clerk," as the title page describes him) on p. 76, may be of some use. The Earl sued his tenant for a penalty payable on the breach of a covenant to permit the landlord not only to thresh corn in a barn but also to carry it away, "from time to time at all times hereafter convenient." During the first two years of the tenancy all went well, but during the third year the plaintiff delayed so long that rodents began to consume the corn, and the defendant, to save what could be saved, threshed it himself. It was argued on his behalf that "at convenient times" means "within a convenient time," and that "convenient" implied "not prejudicial to anybody"; but the judges, finding for the Earl, held that "at" could never mean "in."

Our County Court Letter.

DAMAGE FROM STATIONARY MOTOR CARS.

In *Overett* v. *Day*, recently heard at Ipswich County Court, damages were claimed against a motorist for negligence in leaving a loaded gun in his car, whereby the plaintiff's son had been killed. The deceased was a motor driver in the employ of the defendant, who had sent another employee with a message, and the evidence was that, while receiving the message outside his own house, the deceased had leaned over the car with his folded arms, whereupon the gun had gone off and killed him. His earnings had been 30s. a week, and he had contributed 10s. a week to the support of the plaintiff (his mother) and her step-children. The defendant's evidence was that, on returning from shooting, he had sent the car to the garage after placing the gun flat on the seat with the hammers down, but that he would have removed the cartridge if he had known it was still there. The man who took the car (to deliver the message) stated that he was probably expected by the defendant to go on his bicycle, as usual, and that he himself was not aware of the presence of the gun until he saw the deceased actually lean over and touch it. The expert evidence by gunsmiths (on each side) was conflicting—on the point as to how an uncocked gun might be fired by accident. It was pointed out for the defence that (1) the accident was probably due to the interference with the gun by the deceased, who was guilty of trespass; (2) damages could not be claimed for pain and suffering, but only for financial loss, and the plaintiff (who was not a widow) could let the bedroom of the deceased and also save the cost of his keep. The jury found for the plaintiff in the sum of £100, and His Honour Deputy Judge Rowley Elliston gave judgment accordingly, with costs. A contrary decision was given in *Fardon* v. *Harcourt-Rivington* (1930) 47 T.L.R. 25, in which a jury awarded £2,000 for the loss of a pedestrian's eye—by reason of a dog in a saloon car having broken the glass. The Court of Appeal reversed this decision, however, and entered judgment for the defendant.

THE RECOVERY OF AUCTION JOININGS.

In *Bousfield* v. *Wilkinson*, heard at Penrith County Court, the claim was for £31, being the balance of the purchase price of certain cattle, and the counter-claim was for £19 19s. 6d., of which £10 5s. was due on joining. The defendant's case was that he had made a private purchase of the cattle, which were nevertheless (by mutual arrangement) put in the ring for sale by auction ostensibly as the property of the plaintiff, and any profit was to be divided between the above-named parties. The plaintiff admitted this joining transaction, but contended that there had been a settlement. His Honour Judge Eustace Hills, K.C., was not satisfied that any joinings that accrued were not divided at the time, and it was therefore not necessary to decide as to the legality of the system which was unfortunately in vogue at auction sales. Judgment was therefore given for the plaintiff on the claim and counter-claim, with costs. It is to be noted that the Auctions (Bidding Agreements) Act, 1927, only aims at the mischief of purchasers reducing prices by abstaining from bidding. The converse process of vendors and middlemen combining to raise prices creates no offence, but their rights *inter se* may be affected if their agreement is held void, e.g., as being contrary to public policy.

In Lighter Vein.

THE WEEK'S ANNIVERSARY.

On the 9th October, 1690, Sir John Maynard died at the age of eighty-nine, full of wealth and honours—a remarkable achievement for one whose life-time saw the rise and fall of the Stuart dynasty in England. He sat in the Short Parliament and in the Long Parliament, was Protector's Serjeant under Oliver Cromwell and King's Serjeant under Charles II, rode in the coronation procession at the Restoration and headed the lawyers who welcomed William of Orange on the Whig Revolution. The secret of his immunity was to leave politics alone as far as possible, devoting himself entirely to his profession. In so far as he mixed in public affairs, his moderation saved him from inconsistency. This prudent course was as much a matter of constitution as of discretion, for the law and its problems fascinated him. He always carried in his coach a volume of reports which he said was as good as a comedy to him. His will he purposely framed so as to create litigation in order to settle various doubtful points for the benefit of posterity. He kept his faculties till the end, made speeches without a touch of senile garrulity and the year before his death was appointed First Commissioner of the Great Seal.

SPEAK UP.

Judge Cluer at Whitechapel recently rebuked a mumbling witness whom no one could understand and remarked that there ought to be a school in England to teach people to open their mouths. Incoherence has lost many a good case, but it has probably never been carried further than in one collision case which occupied a learned and patient judge (Manisty, J., according to the story) for two days. The low mumblings

of the witnesses made it difficult for him to gather any scraps of evidence, but the very last one called happened to possess a particularly clear voice. "The near wheel of the omnibus struck the side of the tramcar," he said. "What did he say?" asked the judge, "This is the first I have heard of any tramcar." "My lord," explained counsel, "we are trying a collision between an omnibus and a tramcar." "Oh dear, oh dear!" cried his lordship, "I thought it was a collision between an omnibus and a sand cart—now I shall have to alter all my notes." But time was when even judges were not always in a position to complain of inaudibility. Such was Lord Eskgrove, the old Scots judge of whom Cockburn has left the following description: "Often have I gone back to court at midnight and found him whom I left mumbling hours before still going on . . . the wagging of his lordship's nose and chin being the chief signs that he was still charging."

THE HONEST THIEF.

The Marylebone magistrate was considerably puzzled recently by the case of a young bag-snatcher who was able to call reliable evidence of having a high reputation for honesty and integrity. "The honest thief, the tender murderer, the superstitious atheist," have been interesting problems since long before Robert Browning noted them, but Chief Baron O'Grady, in trying a case involving a similar curiosity, adopted a most effectively plain and straightforward course. The evidence was overwhelming against the prisoner, who nevertheless had been able to call some excellent witnesses as to his good character, and the judge noticed that the jury were visibly impressed. His summing up was most concise. "Gentlemen of the jury," he said, "here is a most respectable young man with an excellent character, who has stolen twelve pairs of stockings, and you will find accordingly."

Obituary.

MR. H. L. STAFFURTH.

The death occurred on Monday, the 14th September, of Mr. Henry Layton Staffurth, solicitor, Bognor Regis, at the age of seventy-four. He was a past President of the Sussex Law Society, and at one time held numerous public appointments. He was admitted in 1880, and was a member of The Law Society.

MR. ERNEST BAGGALLAY, M.A.

For many years a Metropolitan magistrate, Mr. Ernest Baggallay, barrister-at-law, passed away at his London residence, 19, Egerton-gardens, S.W., recently, at the age of eighty-one. The son of the late Lord Justice Baggallay, he was educated at Marlborough and Caius College, Cambridge, and was called to the Bar in 1873. He was counsel to the Post Office from 1877 to 1887, police magistrate at West Ham from 1887 to 1901, and Metropolitan police magistrate from 1901 to 1914, sitting successively at Greenwich, Tower Bridge and Lambeth. He had a serious illness in 1913, and in the following year was compelled to resign on that account. His principal recreation was golf.

MR. HUBERT POTTS.

Mr. Hubert Potts, solicitor, a member of the firm of Potts, Martin & Co., Chester, died there recently at the age of sixty. Formerly for many years deputy clerk to the Cheshire County Council, he held the appointments of clerk to the County Old Age Pensions Committee and to the Visiting Committee of the County Mental Hospital. He was a member of The Law Society and was admitted in 1886.

MR. B. B. DYER.

Mr. Benjamin B. Dyer, solicitor, Boston (Lincs) died there on Tuesday last, at the age of eighty-eight. Admitted in 1865, he had been Clerk to the Kirton and Skirbeck Magistrates for over fifty years. He also held the appointments of Clerk to the Land Tax Commissioners for the Kirton Division and to the Harbour and Dock Commissioners.

Books Received.

The Tragedy of "R.101." Vol. I—A Critical Survey of the Findings of the Court of Inquiry. Vol. II—The Cause of the "R.101" Disaster. By E. F. SPANNER. Demy 8vo. pp. 327 and 344 respectively. 1931. London: E. F. Spanner. 42s. net.

The Juridical Review. Vol. XLIII. No. 3. September, 1931. Edinburgh: W. Green & Son, Ltd. 5s. net.

Reports of Company Cases, including Cases on Banking and Insurance decided by the Privy Council and the High Courts of India and Burma, with Notes of English Cases. Edited and published by A. N. AIYAR, B.A., B.L. 1931. Parts I and II. Lahore: 15s. per annum.

The Land Value Tax: The Finance Act, 1931. Part III. Annotated and explained. By H. SAMUELS, M.A., and PHILIP FORES, Barristers-at-Law. With Notes by JAMES SCOTT, M.P., Solicitor and Notary Public. Medium 8vo. pp. xxx and (with Index) 137. London: Eyre & Spottiswoode (Publishers), Ltd. 17s. 6d. net.

International Law. A Re-statement of Principles in conformity with Actual Practice. By ELLERY C. STOWELL. 1931. Medium 8vo. pp. xxvi and (with Index) 829. London: Sir Isaac Pitman & Sons, Ltd. 21s. net.

Solon, or the Price of Justice. By C. P. HARVEY. Foolscap 8vo. 103 pp. 1931. London: Kegan Paul, Trench, Trübner and Co., Ltd. 2s. 6d. net.

The Law relating to Insurance Agents and Brokers. By J. B. WELSON, LL.M., F.C.I.I., F.C.I.S., Barrister-at-Law. Demy 8vo. pp. 102 (with Index). London: Sir Isaac Pitman and Sons, Ltd. 5s. net.

The Law of Distress for Rent and Rates. By H. EDMUND DAVIES, LL.D. (Lond.), B.C.L. Oxon, Barrister-at-Law. With a Foreword by Sir GEORGE A. BONNER, Senior Master of the Supreme Court and King's Remembrancer. Demy 8vo. pp. xxiv and (with Index) 287. 1931. London: Waterlow & Sons, Ltd. 12s. 6d. net.

World and Peace Armaments. The Problem re-examined by A. I. JACOBS. 1931. Crown 8vo. 183 pp. London: Hutchinson & Co. (Publishers), Ltd. 5s. net.

The Standard Form of Building Contract. Being a critical Annotation of the new Form of Building Contract (issued in 1931 under the sanction of the Royal Institute of British Architects and the National Federation of Building Trades Employers) and a Guide to its use. By E. J. RIMMER, B.Sc., M.Eng., Assoc.M.Inst.C.E., of Lincoln's Inn, Barrister-at-Law, and MICHAEL HOARE, B.A., Barrister-at-Law. London and Watford: Hudson & Stracey.

Mew's Digest of English Case Law. Second Edition. Supplement containing the Cases reported in the years 1925 to 1930, with Tables of Statutes and Cases judicially considered. By The Hon. DOUGLAS MESTON, Barrister-at-Law. Medium 8vo. pp. xlvi and 1890. London: Sweet and Maxwell, Ltd.; Stevens & Sons, Ltd. £3 3s. net.

Roman Law in a Nutshell. With a selection of Questions set at Bar Examinations. By MARSTON GARSIA, B.A., Barrister-at-Law. Second Edition. 1931. Large Crown 8vo. pp. 96. London: Sweet & Maxwell, Ltd. 4s. net.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to The Assistant Editor, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Injuries to Spectator of Motor Cycle Racing.

Q. 2296. A attends, on a Sunday, a motor-cycle grass track racing meeting held in a field adjoining the public highway, in the capacity of spectator. He pays a sum of 1s. for admission to the spectacle. During one of the races, B, who is a rider in the race, skids and strikes a barrier post, knocking down several spectators, including A, all of whom were on their proper side of the barrier, and thereby causing A severe injuries, including a broken thigh. Apparently B is merely a competitor, racing for a prize, and not a paid servant of the promoters of the meeting. The promoters of the meeting hire the field from the owner, and advertise extensively. What prospect has A of obtaining damages from (1) B; (2) the promoters of the meeting; and (3) the owner of the field. A reference to any decided cases would be much appreciated.

A. A's claim to damages will be based on negligence, and (as it is stated that B skidded) it is doubtful if the claim would succeed against him. It is also stated that the promoters hire the field from the owner, and advertise extensively, so that there was no contractual relation between A and the owner of the field. See *Humphreys* v. *Dreamland* (*Margate*), *Ltd.* (1931) 100 L.J. (K.B.) 137. A must therefore establish that the promoters of the meeting were negligent in not providing an adequate barrier, it being important to ascertain where the accident happened, e.g., at a sharp turn where skids were to be expected, and spectators would be likely to congregate in the anticipation of witnessing either skilful driving or (alternatively) a "spill." A case of a similar accident upon a dirt track is reported in the "County Court Letter" entitled "The Responsibilities of Dirt Track Proprietors" in our issue of the 27th April, 1929 (73 Sol. J. 264). In answer to the specific questions, A's prospects of obtaining damages against the respective parties are (1) poor; (2) good; (3) nil.

Costs of Winding Up.

Q. 2297. By s. 254 of the Companies Act, 1929, all costs, charges and expenses properly incurred in a voluntary winding up of a company shall be payable out of the assets of the company in priority to all other claims. Do these costs only include costs incurred on the instructions of the liquidator after the resolution for winding up has been passed, or do they also include costs incurred prior thereto but still in connexion with and leading up to the winding up, e.g., advising the directors to go into liquidation, staving off writs, distresses and the like, and summoning meetings of shareholders and creditors? Please give authorities, if any.

A. The opinion is given that the costs only include those incurred on the instructions of the liquidator after the resolution (and not those incurred prior thereto), as the effect would otherwise be to convert the solicitors into preferential creditors without statutory authority. Although the costs were doubtless incurred for a beneficial purpose, the solicitors are not thereby entitled to any advantage or priority over the other unsecured creditors, and cannot, so to speak, "tack" their subsequent costs to their pre-resolution costs. An analogous point was considered in *In re Woods* (*Bristol*), *Ltd.* [1931] W.N. 159, and the same reasoning is applicable to both cases.

Procedure on Dissolution of Partnership.

Q. 2298. In March, 1930, two ladies formed a partnership, all terms verbal only, and took a lease of a shop in the Hampstead Garden Suburb, and ran it as a library and café. One of the two ladies (my client) gave formal notice to determine the partnership at will, under cl. 32 of the Partnership Act, 1890, as from 21st May last, and she left on that date. Her real reason for leaving was that she found her partner very "difficult," and the profits were not large enough to make it worth her while to try to put up with the partner. The latter's husband, who held a post under the Australian Government, came home to England in January, and, failing to obtain work, has stepped into the place vacated by my client, no doubt with the intention of living upon the profit of the shop. The profits during the first year were about £2 or £3 per week only but they are probably expanding. The shop is in the less developed part of the suburb, but new houses and blocks of flats of a high class are very rapidly being erected in the immediate vicinity of the shop. The shop is attractive in appearance, and likely to do well. The assets of the firm consist of:—

(1) The goodwill.
(2) Value of the lease.
(3) Books and café articles and furniture of small value.
(4) Other articles of larger value, such as refrigerator, on hire-purchase, on which instalments are still outstanding.
(5) A very small bank balance, and a joint deposit of £50 with the lessors.

The remaining partner and her husband maintain that, not only have the assets no value at all, but that, on the other hand, my client owes them money for her share of the outstanding liabilities, which are wholly the instalments not yet due on the hire-purchase articles, and the rent (not over due) under the lease (which is still in the two joint names). I, on the contrary, maintain that about £100 is due to my client for her share in the firm, which share has been taken over by the other lady's husband, free, gratis, and for nothing. The position mainly rests upon whether the lease and the goodwill have, in fact, any value. As to this I have spoken to a local firm of estate agents, who say that a premium *might* be obtainable from a purchaser, up to, say, about £200, but it is not certain. I also spoke to a man from a shop close to this shop and asked if the shops there were making money yet, and he replied in the affirmative, and also pointed out the large number of houses and flats within sight being erected there. More than a year's spade work has been done by the partners, and a small profit was made. My client has no means whatever, being a young widow, whose husband left her with several small children and not a penny. The other partner probably is little better off. What is the best way of helping my client? Friends will bear any small expenses, and they advanced her the money to start. The county court has jurisdiction, under the County Court Act, 1888, s. 67, but even so, the expenses of litigation would be out of proportion to the amount involved. Can my client force a sale without action, and how can she get out of liability for rent, etc., under the lease? The rent is £141 per annum, rising to £191.

A. The case appears to be governed by the Partnership Act, 1890, s. 42 (1), and, as the profits are probably not great, the questioner's client should claim interest at 5 per cent. per annum upon her share of the partnership assets, viz., the

leasehold interest and the deposit with the lessors. If, however, the profits are believed to have increased, the questioner's client should claim a half-share, subject to an allowance to the continuing partner for her management of the business since the dissolution. See *Yates* v. *Finn* (1880) 13 C.D. 839. There is no means of forcing a sale without action, and the expenses of litigation should not be out of proportion to the amount involved, as suggested in the last paragraph of the question. The termination of the liability under the lease depends upon whether there is a covenant against assignment without consent of the lessor, as even an assignment of the half-share to the continuing partner might be a breach. See *Varley* v. *Coppard* (1872) L.R. 7, C.P. 505. The question of liability for rent appears to lose its importance, however, in view of the previous contention that the lease is one of the assets, and may be sold at a premium.

Alternative Claims under Landlord and Tenant Act.

Q. 2299. A held business premises under a lease for twelve years, which expired on the 29th September, 1931, the lease having been assigned to him by former tenants. On the 9th May, 1930, notice was served by registered post by A's solicitors to the landlord's solicitors requiring a new lease in lieu of compensation for goodwill. The form was Form 5 of Appendix of Forms, contained in S. P. J. Merlin's book on the Landlord and Tenant Act, 1927. The notice was acknowledged by the solicitors for the deceased landlord's executors. No application has been made by the landlord or tenant to a tribunal under s. 5 (2) of the Landlord and Tenant Act. In view of this omission, is A entitled to compensation under s. 4 of the Act, or can he alternatively demand a new lease from the present landlords?

A. It is open to the landlord to take the point that the remedies under the Act are alternative, and not concurrent, and, as A preferred to apply for a new lease, he is (*a*) bound by his choice, but (*b*) is out of time for proceeding with his application, and (*c*) A has, therefore, no remedy under the Act. In the absence of a decision of a superior court, however, A is entitled to urge that the remedies are concurrent, and that his failure to proceed with the application for a new lease does not estop him from applying for compensation. The position in such a case has been variously interpreted, and was discussed in an article on the above Act which appeared in our issue of the 17th January, 1931 (75 Sol. J. 35).

Stopped Cheque—Action on.

Q. 2300. A gives B a cheque in settlement of interest alleged by B to be due from A. Before B presents the cheque A is advised that he is not liable to pay the interest, and therefore, stops the cheque. B then threatens proceedings to recover the amount and is informed by A that he must elect either to sue on the stopped cheque or to sue for the interest alleged to be due. B then sues on the cheque, alleging that it was presented for payment and "dishonoured." Does a cause of action lie on a stopped cheque?

A. We express the opinion that there is a cause of action on the cheque which was dishonoured, as it was presented for payment and payment was refused or could not be obtained (Bills of Exchange Act, 1882, s. 47 (1)). The consideration for the giving of the cheque is presumed until it is shown that there was in fact no consideration (*Mills* v. *Barber* (1836), 1 M. & W. 425).

Procedure on Annulment of Adjudication.

Q. 2301. A receiving order was made against A (on his own petition) on the 23rd September, 1924, and he was adjudicated bankrupt on the same day. He has now paid the whole of his debts in full, together with interest at 4 per cent., and wishes to be completely restored to his former state. The court has power, under s. 29 (1) of the Bankruptcy Act, 1914, to annul the adjudication, and s. 108 gives power to the court to rescind receiving orders. Will the debtor's requirements be met if an order annulling the adjudication only is obtained, or must an application also be made to rescind the receiving order?

A. It will suffice if an order annulling the adjudication is obtained, as the Bankruptcy Act, 1914, s. 29, provides that, in such an event, the debtor's property shall vest in such person as the court may appoint or . . . revert to the debtor for all his estate or interest therein. The result is that the receiving order is automatically cancelled, and no application for rescission is necessary.

Builders' Liability to Children.

Q. 2302. A firm of builders and contractors are employed on a municipal housing scheme. The roads of the housing estate are open to vehicular traffic and pedestrians, but the curbs and channels are still to be laid. The stones for curbing and channelling are lying on the roadside ready to be laid, most of them being neatly stacked in a heap, five of them are standing on end. All are quite safe provided no one interferes with them. In broad daylight three children were playing near the stones. One boy aged eight pulled over one of the stones which was standing on end, and measuring 3 feet by 2 feet, another child, a girl, aged thirteen, tried to push the stone back again, but she was not strong enough; the boy ran away and the stone fell on the girl's foot causing some injury. Are the builders liable in damages?

A. It will be necessary to prove negligence against the builders, and evidence will be required as to (1) how long the stones had been there, (2) whether any children had played with them previously, (3) what steps (if any) had been taken to drive the children away. The roads have apparently not been adopted by the local authority, and (as they are not highways) the children were evidently trespassing—unless their parents had bought one of the adjoining sites or houses. A duty is owed, however, even to trespassers, viz., not to injure them by a concealed trap, although in the present case there is evidence of contributory negligence, as the injured child was thirteen years of age. Compare the "Current Topic" entitled "Children and Motor Accidents" in our issue of the 25th July, 1931 (75 Sol. J. 501). The opinion is given that the builders are not liable, in view of *Addie* (*Robert*) *and Sons* (*Collieries*), *Ltd.* v. *Dumbreck* [1929] A.C. 358, but a contrary decision was given in *Excelsior Wire Rope Co.* v. *Callan and others* [1930] A.C. 404. These two cases were reviewed in *Mourton* v. *Poulter* [1930] 2 K.B. 183, where the children were held entitled to recover damages.

Death of an Administratrix absolutely Entitled to a Mortgage Debt of her Intestate—No Transfer to Her—Grant *de bonis non*.

Q. 2303. A, who held a mortgage on certain freehold property, died intestate in 1911, leaving a widow and issue surviving, and letters of administration to his estate were taken out in 1911 by his widow. The administration of A's estate has long since been completed, and the widow at the date of her death was beneficially entitled to the mortgage, but no formal transfer thereof has been made in her favour. The widow has recently died, and by her will bequeathed all her property to B absolutely, whom she appointed sole executrix. Probate of the will has been granted to B, and it is desired to vest the mortgage debt and the security therefor in her beneficially. Can this be done by means of a transfer reciting the facts, and executed by B as personal representative of the widow, in her own favour, without the necessity of obtaining letters of administration *de bonis non* to the estate of A? It is assumed that this can only be done if the mortgage debt and security can be treated as being vested in the widow immediately before her death, not as administratrix but as a trustee, so as to devolve on her death to her personal representative: *Nixon* v. *Smith* [1902] 1 Ch. 176.

A. It is difficult to see how the widow became absolutely entitled to the mortgage debt unless she appropriated it in satisfaction, or part satisfaction, of her beneficial interest under the intestacy. If there was such an appropriation made pre-1926, and if there is satisfactory evidence of the appropriation, then the mortgage debt passed as part of the estate of the widow and can, in our opinion, be dealt with as such by her sole personal representative. We doubt whether the principle of *Re Timmis; Nixon* v. *Smith* [1902] 1 Ch. 176, is in point, because there is no express trust, and because the widow would have the capacity of both sole trustee and sole beneficiary. We base our opinion on the principle that prior to 1926 it was not competent to the widow to transfer to herself, and that if she had definitely appropriated she had done all that she could.

Rent Restriction Acts—Landlord assessed for Rates where previously paid by Tenant.

Q. 2304. The owners of a number of houses whose rateable value does not exceed £13 a year have been compelled to pay the rates in lieu of the tenants under s. 11 of the Rating and Valuation Act, 1925. The tenants were formerly rated and liable to pay the rates under their respective contracts of tenancy, and the owners have had a difficulty in collecting the rates paid by them on behalf of the tenants. Under s. 11 (9) of the above Act the owners only appear to have a right of reimbursement by the tenant, and apparently cannot distrain for the rates paid as rent in arrear. The houses are subject to the Rent Restriction Act, 1920. Can the owners give notice to the tenants to increase the rent by the amount of rates paid under s. 2 (*b*) of the said Act? The transfer of the amount of rates paid to the tenant would not be a burden previously borne by the landlord under sub-s. (3) of the above section, but a burden previously borne by the tenant.

A. The case comes within s. 2 (1) of the Increase of Rent &c. Act, 1920, and the landlord can by notice increase the rent by the net amount of rates payable by him: *Hodgkinson* v. *Hewitt* [1928] 44 T.L.R. 694.

Notes of Cases.

High Court—King's Bench Division.

Davy *v.* Magnus and Others.

Swift and Charles, JJ. 30th July.

Landlord and Tenant—Possession of Premises Claimed—Action begun under Wrong Section of Statute—Judge's Power to Allow Amendment—County Courts Act, 1888 (51 & 52 Vict., c. 43), ss. 59, 87, 138.

Plaintiff's appeal from a decision of the judge of the Shoreditch County Court.

In this action the plaintiff, John Henry Davy, claimed from Albert Magnus, Arthur Taylor and Helen Solomon, recovery of possession of a dwelling-house and two shops, No. 90, Upper Clapton-road. The plaintiff began the action under s. 59 of the County Courts Act, 1888, which provided for the bringing of actions of ejectment. During the progress of the action, however, the judge came to the conclusion that the proceedings should have been brought under s. 138, which provided for the recovery of possession of tenements. On counsel for the plaintiff asking the judge to permit such amendments to be made as might be necessary to entitle him to rely on s. 138, the judge held that he had no power to do so, and he dismissed the action. The plaintiff now appealed.

Swift, J., said that the view of the court was that up to the last moment before judgment was pronounced it was the duty of the court so to adjust the proceedings that the real rights of the parties might be enforced. It sometimes happened that the true issues did not emerge until the evidence had been heard, and the necessary amendments ought then to be made. After referring to the facts of the present case, his lordship said that that court thought that the county court judge had power to amend the proceedings and that he ought to have exercised it. If any costs were thereby thrown away, that could easily have been adjusted. They thought that it was quite wrong to refuse to give leave on the ground that the proceedings had been improperly begun. All that was needed was to alter the figure "59" to "138." The court was satisfied that under the general power to amend given by s. 87 of the County Courts Act, 1888, there was ample jurisdiction to make the amendment, and they thought that it ought to have been made. Appeal allowed, and action remitted to the county court in order that the necessary amendments might be made.

Counsel: *Graham Mould*, for the appellant; *Geoffrey Howard*, for the respondents.

Solicitors: *E. T. Lea; Howard A. Lawrence & Co.*

[Reported by Charles Clayton, Esq., Barrister-at-Law.]

Court of Criminal Appeal.

Rex *v.* Chapman.

Lord Hewart, C.J., Roche, Acton, Hawke and Humphreys, JJ. 30th July.

Criminal Law—Statutory Proviso—Interpretation—Meaning of "Twenty-three Years of Age or Under"—Until Twenty-four—Criminal Law Amendment Act, 1922 (12 & 13 Geo. 5, c. 56), s. 2.

This was the appeal against conviction of Thomas Chapman, who was convicted before Avory, J., at Huntingdon Assizes on the 19th May, 1931, of a serious offence against a girl under the age of sixteen contrary to s. 5 of the Criminal Law Amendment Act, 1885. The appellant was born on the 27th September, 1906, and at the time of the commission of the offence alleged in March, 1930, he had, therefore, passed his twenty-third birthday and had not attained his twenty-fourth birthday. By s. 2 of the Criminal Law Amendment Act, 1922: "Reasonable cause to believe that a girl was of or above the age of sixteen years shall not be a defence to a charge under s. 5 or 6 of the Criminal Law Amendment Act, 1885 . . . Provided that in the case of a man of twenty-three years of age or under the presence of reasonable cause to believe that the girl was over the age of sixteen years shall be a valid defence on the first occasion on which he is charged with an offence under this section." The accused relied on the defence under the proviso, and the jury found that he had reasonable cause to believe and did in fact believe that the girl was over sixteen. Avory, J., however, held that the words "of twenty-three years of age or under" were not applicable to a man between twenty-three and twenty-four years of age.

Lord Hewart, C.J., in giving the judgment of the court, said that the only substantial question in the appeal was whether a man in his twenty-fourth year is a man "of twenty-three years of age or under" within the meaning of the proviso to s. 2 of the Criminal Law Amendment Act, 1922. The case for the appellant was that a man became twenty-three on his twenty-third birthday and remained twenty-three until his twenty-fourth birthday. Much argument had taken place and might take place on the meaning of the words "of twenty-three years of age or under," but the court had come to the conclusion that in the present case the observations, based upon a series of cases, applied, which were to be found in "Maxwell on the Interpretation of Statutes," 7th ed. p. 244: "Where an equivocal word or ambiguous sentence leaves a reasonable doubt of its meaning which the canons of interpretation fail to solve, the benefit of the doubt should be

given to the subject and against the Legislature which has failed to explain itself." On that ground the appeal would be allowed and the conviction quashed.

COUNSEL: *Alban Gordon*, for the appellant; *Linton Thorp*, for the Crown.

SOLICITORS: *Registrar of the Court of Criminal Appeal; Director of Public Prosecutions.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Correspondence.

"Solicitors and Cabinet Rank."

Sir,—In the interesting notes in your issue of the 5th instant of solicitors who have reached Cabinet rank you have overlooked the most outstanding instance of all, viz., Mr. Lloyd George, the brilliance of whose career as President of the Board of Trade, Chancellor of the Exchequer and Prime Minister, has surely been unique.

Victoria Docks, E.16. A. W. NOALL.
15th September.

[The name of Mr. Lloyd George should, of course, have been included in the list of solicitors who have attained Cabinet rank. The omission can only be accounted for by momentary forgetfulness, which we very much regret.—ED., *Sol. J.*]

Societies.

The Law Society.

ANNUAL PROVINCIAL MEETING.

The Council of The Law Society have settled the following course of procedure to be adopted at the Forty-seventh Provincial Meeting, to be held on Tuesday and Wednesday, the 6th and 7th October, 1931, at the Leas Cliff Hall, Folkestone (Mr. Philip Hubert Martineau, President):—

Tuesday, 6th October, 1931, at 10.30 a.m., at the Leas Cliff Hall, Folkestone. The proceedings will commence with the President's Address, after which the following papers will be read: "The effect of recent legislation on the Coroner's Court," Rutley Mowll (Dover), President of the Kent Law Society and of the Coroners' Society of England and Wales; "Theory and Practice in legal education," Harold Potter (London), Reader in English Law in the University of London, King's College; "Decrease in the cost of litigation," H. Wills Chandler (Basingstoke); "Solicitors' Accounts," Charles L. Nordon, LL.B. (London); "The debts of married women," Charles Berry (Tunbridge Wells).

Wednesday, 7th October, 1931, at 11 a.m., at the Leas Cliff Hall (Reading Hall), Folkestone. "Courts of domestic relations," Carrie Morrison, M.A. (London); "Some international elements in matrimonial causes," Francis C. Coningsby, LL.B. (London); "Rogues and Vagabonds," Edward A. Bell (London).

The President may make such alteration in the order of the papers as he may think convenient.

The annual General Meeting of The Solicitors' Benevolent Association will be held at 10.15 a.m. on Wednesday, the 7th October.

Law Students' Debating Society.

The first meeting of the ninty-third annual session of this society will be held on Tuesday, 6th October, when a motion "That this house welcomes the formation of the National Government," will be opened in the affirmative by Mr. Gerald Thesiger, and in the negative by Mr. Eric G. M. Fletcher.

The meetings of the society take place on Tuesday evenings at 7.30 p.m. at The Law Society's Hall (Bell Yard entrance). Legal and general subjects are discussed alternately. Barristers, solicitors and law students are qualified for membership. Provincial law students in London for less than six months for the purpose of completing their studies may join as temporary members. Enquiries should be addressed to Mr. H. J. Baxter, Farrar's Building, Temple, E.C.4, or to Mr. C. F. S. Spurrell, 31, Gloucester-road, N.W.1.

Parliamentary News.

Progress of Bills.

House of Lords.

Adoption of Children (Scotland).
Royal Assent. [31st July.
*Agricultural Land (Utilisation).
Royal Assent. [31st July.
*Agricultural Marketing.
Royal Assent. [31st July.
*Agricultural Produce (Grading and Marketing) Amendment [H.L.] Royal Assent. [31st July.
*Ancient Monuments [H.L.].
Royal Assent. [12th June.
Architects (Registration).
Royal Assent. [31st July.
British Sugar Industry (Assisted).
Read Third Time and passed. [28th July.
Coal Mines.
Royal Assent. [8th July.
Destructive Foreign Animals [H.L.].
Read Third Time. [20th July.
*Expiring Laws Continuance.
Royal Assent. [19th December, 1930.
Finance.
Royal Assent. [31st July.
Gold Standard (Amendment).
Royal Assent. [21st September.
*Housing (Rural Workers) Amendment.
Royal Assent. [8th July.
Housing (Rural Authorities).
Royal Assent. [31st July.
Imports Regulation.
Read First Time. [29th September.
Improvement of Live Stock (Licensing of Bulls).
Royal Assent. [31st July.
Isle of Man (Loans).
Royal Assent. [31st July.
Local Authorities (Admission of Press to Meetings) [H.L.].
Royal Assent. [11th June.
Local Authorities (Publicity).
Royal Assent. [12th June.
Local Government (Clerks) [H.L.].
Royal Assent. [31st July.
London Squares Preservation.
Royal Assent. [31st July.
Marriage (Prohibited Degrees of Relationship).
Royal Assent. [31st July.
Merchant Shipping (Safety and Load Line Convention).
Read Third Time. [7th July.
Mining Industry (Welfare Fund).
Royal Assent. [8th July.
National Economy.
Royal Assent. [30th September.
Probation of Offenders (Scotland).
Royal Assent. [31st July.
Public Works Loans.
Royal Assent. [30th September.
*Representation of the People (No. 2).
Read Third Time. [21st July.
Representation of the People (No. 2).
Report. [16th July.
Road Traffic (Amendment) [H.L.].
Royal Assent. [31st July.
Salvation Army.
Royal Assent. [31st July.
Sentence of Death (Expectant Mothers).
Royal Assent. [8th July.
Small Landholders and Agricultural Holdings (Scotland).
Royal Assent. [31st July.
Unemployment Insurance (No. 3).
Royal Assent. [31st July.
Unemployment Insurance (No. 2).
Royal Assent. [8th July.
Unemployment Insurance (No. 4).
Read Third Time. [8th July.
*Widows, Orphans and Old Age Contributory Pensions.
Royal Assent. [12th June.
Wills and Intestacies.
Reported without Amendment from Joint Committee. [17th June.
Workmen's Compensation.
Royal Assent. [12th June.

House of Commons.

*Consumers' Council.
Standing Committee. [28th September.
Employment Returns.
Read Second Time. [17th April.
Exportation of Horses (No. 2).
Read Second Time. [30th July.
Finance (No. 2).
Read Second Time. [23rd September.
Hospital Lotteries.
Rejected on First Reading. [19th May.
Local Authorities (Admission of the Press).
Royal Assent. [11th June.
Local Authorities (Publicity).
Royal Assent. [11th June.
London Passenger Transport.
Joint Committee. [10th June.
National Economy.
Royal Assent. [30th September.
Parliamentary Election Expenses.
Read First Time. [28th September.
Petroleum.
Read Second Time. [19th June.
Pharmacy and Poisons.
Read Second Time. [28th September.
Public Offices Sites (Amendment).
Withdrawn. [29th June.
Public Works Loans.
Royal Assent. [30th September.
Rabbits.
Read Second Time. [7th November, 1930.
Registration and Regulation of Osteopathy.
Withdrawn. [12th May.
Rent (Reduction and Control).
Read Second Time. [19th June.
*Representation of the People (No. 2).
Read Third Time. Lords Amendments to be considered. [2nd June.
Rights of Railway Passengers.
Read Second Time. [1st July.
Rural Amenities.
Withdrawn. [14th April.
Sharing Out Clubs (Regulation).
Read Second Time. [24th April.
Shops (Sunday Trading Restriction).
Read Second Time. [8th May.
Small Landholders and Agricultural Holdings (Scotland).
Lords' Amendment Agreed to. [28th July.
Solicitors (Clients' Accounts).
Read Second Time. [23rd January.
Summary Jurisdiction (Appeals).
Read Second Time. [24th April.
*Sunday Performances (Temporary Regulation).
Read First Time. [29th September.
*Town and Country Planning.
Considered in Committee. [21st May.
Trade Disputes and Trades Union (Amendment).
Reported to House as amended. [3rd March.
Wireless Telegraphy (Bedridden Persons).
Read Second Time. [5th June.
Workmen's Compensation.
Royal Assent. [11th June.

* Government Bill.

House of Commons.

Questions to Ministers.

CONSUMERS' COUNCIL BILL.

Mr. Morley asked the Prime Minister if he is now prepared to give facilities for the passage into law of the Consumers' Council Bill.

Mr. S. Baldwin: The answer is in the negative. [23rd September.

LAND DRAINAGE (RATES).

Mr. Blindell asked the Minister of Agriculture whether he is aware that internal drainage boards are unable to levy rates or meet precepts levied upon them by catchment boards on account of the Land Drainage Act, 1930, providing for the basis of assessment being changed from that of acreage to annual value; and what steps he will take to put these boards in a position to function properly during the period necessary for reassessment.

Sir J. Gilmour: I am aware that in the case of many of the smaller internal boards the difficulty referred to by my hon. Friend has arisen; but any alteration of the basis of assessment would require legislation, which is impracticable at present. I can only suggest that drainage boards who are experiencing difficulty should make their own temporary arrangements to deal with the situation until they have completed their records on which the required valuation on the basis of annual value is made. [23rd September.

LAND DRAINAGE ACT, 1930 (RATES).

Mr. Womersley asked the Minister of Health whether he is aware that rates on account of expenditure incurred under the Land Drainage Act, 1930, are being levied on occupiers of land which in no way benefits by the drainage operations in question; and whether he proposes to issue any instructions to local authorities with regard to this matter?

Sir J. Gilmour: I have been asked to reply. If my hon. Friend knows of any case where rates under the Land Drainage Act, 1930, are being levied by drainage authorities on persons not liable under the terms of the statute, I shall be glad if he will let me have particulars. [24th September.

LAND DRAINAGE.

Mr. T. Williams asked the Minister of Agriculture how many drainage schemes have been submitted to his Department by catchment area boards; how many of such schemes have been approved; and the total cost?

Sir J. Gilmour: Four catchment boards have submitted five drainage schemes, and of these, four have been approved by the Ministry. The estimated total cost of the approved schemes is £25,800. [28th September.

TITHE RENT-CHARGE.

Mr. Lawther asked the Minister of Agriculture if he is prepared to meet the Tithe Payers Association with a view to discussing their problems and coming to an agreement on the subject?

Sir J. Gilmour: No, sir. I am quite satisfied that no useful purpose would be served by such a meeting. [24th September.

TITHE RENT-CHARGE.

Mr. Ede asked the Minister of Agriculture if his attention has been directed to the difficulty of collecting tithe and the unpopularity with which legal action for its recovery is covered; and what action he proposes to afford relief to the tithe payers?

Sir J. Gilmour: I cannot undertake to introduce legislation relieving landowners of the liability of their property to tithe rent-charge. [28th September.

HOUSING (RURAL WORKERS) ACT.

In reply to Mr. Perry and Mr. Gould,

Mr. Chamberlain: There is no intention of repealing the Housing (Rural Authorities) Act, 1931, to which I assume the questions of the hon. Members to refer. Applications from rural district councils under this Act are still coming in, and, in accordance with sub-s. (3) of s. 1, all such applications will be eligible for consideration provided that they are made before the 30th November next. In accordance with the Act, applications will be first considered by the committee appointed by my predecessor, of which my right hon. Friend the Paymaster-General is chairman. [24th September.

Legal Notes and News.

Honours and Appointments.

City of London Under-Shrievalty.

Mr. T. Howard Deighton, solicitor, of 90, Cannon Street, London, E.C.4, has been appointed Under-Sheriff for the City of London by Mr. Sheriff George H. Wilkinson. Mr. Deighton has many times previously served the office of Under-Sheriff.

The King has been pleased to approve that the dignity of a Baronetcy be conferred upon Alderman Sir William Phené Neal, Solicitor, on the occasion of his retirement from the office of Lord Mayor of London.

The King has been pleased to make the following appointments: Sir Thomas W. Inskip, C.B.E., K.C., to be His Majesty's Solicitor-General; Mr. Robert Evans Hall (Puisne Judge, Gold Coast) to be Judge of the High Court of Northern Rhodesia; Mr. Robert Stephen de Vere (Chief Justice, Seychelles) to be the Chief Justice of Granada.

Mr. DAVID STUART JONES, solicitor, Neath, has been appointed Legal Assistant in the office of Mr. P. B. Beecroft, LL.B., solicitor, Town Clerk of Chepping-Wycombe.

Mr. H. C. K. BROADHURST has been appointed Acting Clerk to the Rayleigh (Essex) Urban District Council, Mr. A. C. Powell, the Clerk, having resigned on account of ill-health.

Mr. ARTHUR J. D. ROBINSON, solicitor, Clitheroe, has been appointed Clerk to the Justices of that Petty Sessional Division.

Mr. CHARLES HENRY PIERRE, barrister-at-law, has been appointed one of His Majesty's Counsel for the Colony of Trinidad and Tobago.

Mr. JOSEPH SHUTTLEWORTH, M.A., B.Com., has been appointed Assistant Registrar-General of Births, Deaths and Marriages for Northern Ireland.

Mr. J. A. THOM has been appointed Law Advocate-Depute, in place of Mr. Robert Gibson, K.C., who has resigned.

The Lord Advocate has appointed Mr. JOHN STEWART CORMACK, solicitor, Kirkwall, to be Procurator-Fiscal of the Sheriff Court of the County of Okrney.

Mr. EDMUND SINCLAIR, M.A., solicitor, Aberdeen, has been appointed Town Clerk of Banchory, Deeside, in succession to the late Mr. J. J. Mackenzie.

Professional Partnerships Dissolved.

ERNEST ROY BIRD, STEPHEN BIRD, JOHN FRANCIS RATFORD, HENRY EDWARD QUICK and WILLIAM THOMAS SWATTON, solicitors, 11, Serjeants' Inn, Temple, E.C.4, and 9, Young-street, Kensington, W.8 (Wedlake, Letts & Birds and Ernest Bird & Sons) dissolved by effluxion of time as and from 31st August, 1931.

JOHN HENRY ARUNDEL GODOLPHIN ST. AUBYN and FRANK HELLINGS, solicitors, 5-6, Bucklersbury, in the City of London, E.C.4 (St. Aubyn, Hellings & Co.), dissolved by mutual consent as from 31st August, 1931. The business will be carried on in the future by J. H. A. G. St. Aubyn under the style or firm name of St. Aubyn & Co.

Wills and Bequests.

Mr. John William Wall, solicitor, Bootle, left estate of the gross value of £8,467, with net personalty £6,477.

Mr. Edward Arnold, of Watford, Herts, solicitor, late of G.P.O., left estate of the gross value of £7,016, with net personalty £5,567.

THE DEFINITION OF "DRY ROT."

In *Whiteley* v. *Bishop*, recently heard in the Liverpool Chancery Court, the claim was for the rescission of a contract for the purchase of a house (on the ground of misrepresentation) and for the return of the deposit of £85. The defendant's case was that (1) he had made no representation, (2) the house was not defective owing to dry rot as alleged, (3) he was therefore entitled to (and counter-claimed for) specific performance. A university professor gave evidence that there was no fungus of what was technically dry rot, as the fungus on the under-surface of a floor board was revealed under the microscope as an inactive fungus, due to the use of unseasoned timber, but the latter had ceased to deteriorate. The Vice-Chancellor (Sir Courthope Wilson, K.C.) held that the question was not to be approached from the scientific standpoint, as, in ordinary business, an architect or builder knew what he meant by dry rot, which was fatal in any house. The misrepresentations (though innocent) had been established, and judgment was given for the plaintiff on the claim and counter-claim, with costs.

MIDDLESEX AND LONDON SESSIONS.

Reference to the possible absorption of Middlesex by London for sessions purposes and the appointment of stipendiary magistrates to the present petty sessional divisions of Middlesex was made by Sir Montagu Sharpe, K.C. (Chairman), at the Middlesex Sessions held at the Middlesex Guildhall, Westminster, on Saturday last.

Sir Montagu Sharpe welcomed the decision to appoint a committee to consider the future appointment of chairman, vice-chairman, and assistant deputy-chairman of the Middlesex Sessions. That, he said, would meet the possibility of the absorption of Middlesex by London for sessions purposes and, perchance, a move by the Home Office to appoint stipendiary magistrates to the present petty sessional divisions.

Referring to the suggestion of Mr. Cecil Whiteley, K.C., Chairman of the London Sessions, that as a measure of economy Grand Juries should be suspended as they were during the war, Sir Montagu Sharpe said he did not agree with his fellow-chairman.

MIDDLESEX SESSIONS.

The number of prisoners for trial at the Middlesex Sessions on Saturday last was seventy-two, which the Chairman (Sir Montagu Sharpe, K.C.) said was larger than he ever remembered in his thirty years' experience in that court.

LAW SOCIETY CRICKET CLUB.

The annual dinner of the above club will be held at the Trocadero Restaurant, Piccadilly Circus, W.1, on Wednesday, the 28th October, 1931, at 8.30 p.m.

Tickets 10s. 6d. each may be obtained on application to the Hon. Secretary, Louis D. Gordon, Students' Rooms, Law Society's Hall, Chancery Lane, W.C.2, or from the Principal's Secretary.

LORD JUSTICE LAWRENCE.

A tribute to the services of Lord Justice Lawrence to Roedean School, near Brighton, founded by three of his sisters, was paid at the school on Saturday last, when a portrait of him, painted by Mr. Hugh Riviere, was unveiled by Vice-Admiral Percy Royds. The portrait was subscribed for by past and present pupils, members of the staff, and friends of the school, and will hang in the school buildings in company with the portraits of the three founders, Miss Penelope, Miss Dorothy and Miss Millicent Lawrence.

Lord Justice Lawrence made a brief speech of thanks. He said he had made many valued friendships through his association with the school. There was scarcely a public function or even private entertainment which he now attended in London at which someone did not greet him as "Uncle Paul."

THE SUPREME COURT, SINGAPORE.

Statistics published in the annual report on the Registry, Supreme Court, Singapore, show that during 1929 the First Court sat in civil cases for 166 days and in assizes for 22 days, while the corresponding sittings of the Second Court were 135 days and 41 days. There were 14 appeals from the District Judge (Civil), of which four were allowed, and 35 appeals from magistrates, of which six were allowed. There were 99 assize cases during the year, in which 135 persons were tried, and in 76 of these convictions resulted.

REGISTRATION OF DEEDS AT SINGAPORE.

Statistics published in the annual report on the Registry of Deeds, Singapore, show that deeds presented for registration in 1929 totalled 5,609, as compared with 5,806 in 1928 and 6,151 in 1927. These numbers show a gradual diminution of transactions since the boom year of 1926, the report adds, but it is surprising, in view of the low prices of rubber and tin during the year, that the decrease of land transactions was not still more marked. The number of deeds finally registered in 1929 was 6,122, as against 5,009 in 1928 and 5,106 in 1927. The explanation is that the Survey Department had made rapid progress in clearing off the arrears of work, and large numbers of deeds which were delayed pending survey were finally registered.

MICHAELMAS LAW SITTINGS.

STATE OF THE LISTS.

Figures are now available of the work with which the courts will have to deal during the coming Michaelmas Law Sittings. There is a decrease of business in the Chancery Division, the causes and matters for hearing numbering 294, as against 306 for the corresponding term last year. Mr. Justice Maugham has the heaviest list with eighty-one, and Mr. Justice Farwell the lightest with twenty-six. In addition there are 144 companies matters, an increase of ten.

The total number of appeals to the Divisional Court has decreased by eighty-eight, the figure being 115, compared with 203. There are twenty-five appeals in the Crown Paper, a decrease of forty-nine; and fifty-five in the Civil Paper, a drop of thirty-six. The appeals in the Revenue Paper number twenty, as against twenty-seven last year, and in the Special Paper four, compared with nine. There are eleven cases under the Housing Acts, 1925 and 1930.

In the Divorce Division the suits number 895, an increase of seventy-four. There are 673 undefended causes, an increase of 111; and 182 defended causes, a decrease of thirty-two. The special jury actions number six and the common jury actions thirty-four, as against nine and thirty-six respectively for last year.

Autumn Assizes.

CIRCUITS OF THE JUDGES.

The following days and places have been fixed for holding the Autumn Assizes, 1931:—

OXFORD CIRCUIT.—Mr. Justice Swift: Tuesday, 13th October at Reading; Saturday, 17th October, at Oxford; Thursday, 22nd October, at Worcester; Monday, 26th October, at Gloucester; Monday, 2nd November, at Monmouth; Thursday, 5th November, at Hereford; Monday, 9th November, at Shrewsbury; Monday, 16th November, at Stafford.

WESTERN CIRCUIT (First Portion).—Mr. Justice Acton: Wednesday, 14th October, at Devizes; Monday, 19th October, at Dorchester; Friday, 23rd October, at Taunton; Wednesday, 28th October, at Bodmin; Monday, 2nd November, at Exeter.

NORTHERN CIRCUIT.—Mr. Justice Talbot and Mr. Justice Finlay: Friday, 16th October, at Carlisle; Tuesday, 20th October, at Lancaster; Monday, 26th October, at Liverpool; Monday, 16th November, at Manchester.

SOUTH-EASTERN CIRCUIT (First Portion).—Mr. Justice Horridge: Tuesday, 13th October, at Cambridge; Saturday, 17th October, at Norwich; Friday, 23rd October, at Bury St. Edmunds; Thursday, 29th October, at Chelmsford.

NORTH-EASTERN CIRCUIT.—Mr. Justice Roche: Saturday, 31st October, at Newcastle; Thursday, 12th November, at Durham; Thursday, 19th November, at York. Mr. Justice McCardie and Mr. Justice Roche: Thursday, 26th November, at Leeds.

MIDLAND CIRCUIT.—Mr. Justice Mackinnon: Monday, 12th October, at Aylesbury; Thursday, 15th October, at Bedford; Monday, 19th October, at Northampton; Thursday, 22nd October, at Leicester; Tuesday, 3rd November, at Lincoln; Monday, 9th November, at Nottingham; Monday, 16th November, at Derby; Saturday, 21st November, at Warwick. Mr. Justice Swift and Mr. Justice Mackinnon: Monday, 30th November, at Birmingham.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (20th September, 1931) 6%. Next London Stock Exchange Settlement Thursday, 8th October, 1931.

	Middle Price 30 Sept. 1931.	Flat Interest Yield.	Approximate Yield with redemption
English Government Securities.		£ s. d.	£ s. d.
Consols 4% 1957 or after	81	4 18 9	—
Consols 2½%	53	4 14 4	—
War Loan 5% 1929-47	94	5 6 5	—
War Loan 4½% 1925-45	90	5 0 0	5 11 3
Funding 4% Loan 1960-90	81xd	4 18 9	5 0 0
Victory 4% Loan (Available for Estate Duty at par) Average life 35 years	88	4 10 11	4 14 9
Conversion 5% Loan 1944-64	95xd	5 5 3	5 6 9
Conversion 4½% Loan 1940-44	90	5 0 0	5 12 3
Conversion 3½% Loan 1961	71	4 18 7	—
Local Loans 3% Stock 1912 or after	60	5 0 0	—
Bank Stock	240	5 0 0	—
India 4½% 1950-55	61	7 7 7	8 0 0
India 3½%	48	7 5 10	—
India 3%	41	7 6 4	—
Sudan 4½% 1939-73	87½	5 2 10	5 5 0
Sudan 4% 1974	77½	5 3 3	5 7 3
Transvaal Government 3% 1923-53 (Guaranteed by Brit. Govt. Estimated life 15 yrs.)	80	3 15 0	4 9 1
Colonial Securities.			
Canada 3% 1938	85	3 10 7	5 12 6
Cape of Good Hope 4% 1916-36	91½xd	4 7 5	6 0 0
Cape of Good Hope 3½% 1929-49	82½	4 4 10	5 0 0
Ceylon 5% 1960-70	92½	5 8 1	5 9 0
*Commonwealth of Australia 5% 1945-75	62	8 1 3	7 13 6
Gold Coast 4½% 1956	90	5 0 0	5 4 6
Jamaica 4½% 1941-71	92½xd	4 17 4	4 19 0
Natal 4% 1937	92½	4 6 6	5 15 0
*New South Wales 4½% 1935-1945	51	8 16 6	9 11 8
*New South Wales 5% 1945-65	55	9 1 9	9 4 0
New Zealand 4½% 1945	77½	5 16 2	6 8 0
New Zealand 5% 1946	85	5 17 8	6 12 6
Nigeria 5% 1950-60	92½	5 8 1	5 10 6
*Queensland 5% 1940-60	57	8 15 6	9 4 6
South Africa 5% 1945-75	92½	5 8 1	5 9 0
*South Australia 5% 1945-75	62	8 1 3	8 5 3
*Tasmania 5% 1945-75	65	7 13 10	7 16 6
*Victoria 5% 1945-75	62	8 1 3	8 5 0
*West Australia 5% 1945-75	65	7 13 10	7 17 0
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	62	4 16 9	—
Birmingham 5% 1946-56	96½	5 3 8	5 5 0
Cardiff 5% 1945-65	96½	5 3 8	5 4 9
Croydon 3% 1940-60	67½	4 8 11	5 4 6
Hastings 5% 1947-67	95½	5 4 9	5 5 6
Hull 3½% 1925-55	82½	4 4 10	4 14 6
Liverpool 3½% Redeemable by agreement with holders or by purchase	67½	5 3 8	—
London City 2½% Consolidated Stock after 1920 at option of Corporation	47½	5 5 3	—
London City 3% Consolidated Stock after 1920 at option of Corporation	59½	5 0 10	—
Metropolitan Water Board 3% "A" 1963-2003	57½	5 4 4	—
Do. do. 3% "B" 1934-2003	59½	5 0 10	—
Middlesex C.C. 3½% 1927-47	85½	4 1 10	4 16 0
Newcastle 3½% Irredeemable	71	4 18 7	—
Nottingham 3% Irredeemable	60	5 0 0	—
Stockton 5% 1946-66	97½	5 2 7	5 3 3
Wolverhampton 5% 1946-56	95xd	5 5 3	5 7 6
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	73½	5 8 10	—
Gt. Western Railway 5% Rent Charge	90½	5 10 6	—
Gt. Western Rly. 5% Preference	65½	7 12 8	—
L. & N.E. Rly. 4% Debenture	62½	6 8 0	—
L. & N.E. Rly. 4% 1st Guaranteed	58½	6 16 9	—
L. & N.E. Rly. 4% 1st Preference	40½	9 17 6	—
L. Mid. & Scot. Rly. 4% Debenture	64½	6 4 0	—
L. Mid. & Scot. Rly. 4% Guaranteed	59	6 15 7	—
L. Mid. & Scot. Rly. 4% Preference	42½	9 7 2	—
Southern Railway 4% Debenture	68½	5 16 10	—
Southern Railway 5% Guaranteed	86½	5 15 7	—
Southern Railway 5% Preference	56½	8 16 10	—

*The prices of Australian stocks are nominal—dealings being now usually a matter of negotiation.